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House of Commons Debates

SIXTH SESSION—SEVENTH PARLIAMENT

SPEECH

OF

J. MARTIN, M.P.

ON THE

MANITOBA SCHOOL BILL

OTTAWA, FRIDAY, 6TH MARCH, 1896

Mr. MARTIN. Mr. Speaker, the hon. gentleman who has just taken his seat (Mr. Moncrieff) has spoken in a spirit of reasonableness as regards his attitude towards the Roman Catholics, and I was very pleased to hear his remarks in that direction. But I have been informed that the hon. gentleman in a recent contest which took place in Ontario expressed views which scarcely coincide with those he has enunciated with so much vigour and eloquence to-day. I am informed that the hon. gentleman was a very active and strong supporter of Mr. Gurd, the P.P.A. candidate for the provincial assembly. I understand that among the planks of the P.P.A. organization is one that no Catholics shall be dealt with, that no Catholics shall be employed by a member of the association. I find it difficult indeed to reconcile the attitude which the hon. gentleman takes here to-day as a member of this House with his attitude in an election for the Ontario legislature and the candidature of the member of the order to which I have referred. I am told that the hon. gentleman was so anxious and desirous that the support given by him to Mr. Gurd should be known that he went to the ballot box and ostentatiously dropped his ballot marked for that candidate. We know that the local legislature contest in the county of Lambton from the P.P.A. standpoint was very bitter indeed, that all means possible were taken to incense the people against the Roman Catholics; that the supporters of Mr. Gurd, chief among whom was the hon. gentleman who has just spoken, brought into that country a woman named Margaret Sheppard, who maligned the Roman Catholic people and the Roman Catholic clergy, and who introduced into the contest there elements very widely different from the sentiments which the hon. gentleman has addressed to the House to-day. The remarks I am now making with respect to the hon. member for Lambton (Mr. Moncrieff), I am sorry to say, apply to a number of other hon. members from the province of Ontario. When it was a question of opposition to Sir Oliver Mowat their attitude towards Roman Catholics was very different. Those very same men who find in every piece of legislation carried through the Ontario legislature by Sir Oliver Mowat some proposal to hand over the affairs of the province to the Pope, are to-day filled with pleasure and delight at the action of this Government in connection with the Remedial Bill. I think it is very evident and clear how that change of opinion has come about.

In the one case the effect of the attacks was against Sir Oliver Mowat, the Liberal Premier of Ontario ; in this case arguments of that kind are calculated to tell against the Government which hon. gentlemen support here. I am very sorry to notice this change of view as regards the hon. member for Lambton (Mr. Moncrieff), and I think it takes away very largely from the effect of the very fine sentiments he enunciated to-day. The hon. gentleman spent considerable time in dealing with the matter which was first brought into this debate by the Minister of Justice, and one as to which I crave the indulgence of the House while I offer a few remarks. The hon. gentleman elaborated time and again the position of the province of Quebec. It is urged that the change by which Protestants obtained representation in the Council of Public Instruction took place subsequent to 1867, that the only remedy the Protestants could have in case the provincial legislature of Quebec should repeal that law and refuse to Protestants representation on the Council of Public Instruction, would be an appeal under the appeal clauses which we are dealing with in considering this Bill now under discussion. I do not think it would be a matter of very great importance to the Protestants in Quebec if they were denied representation on the Council of Public Instruction. It is very proper they should have such representation, and it is very creditable to the Roman Catholic majority that they should freely have accorded this representation to Protestants, and allowed, freely and without compulsion, the Protestant board to decide all questions affecting Protestant or dissentient schools in that province. But for many years prior to 1869, the Protestants had no such right or privilege in that province, and yet they did not appear to suffer very largely on that account. The Minister of Justice attempted to convey the idea that the Council of Public Instruction in the province of Quebec had control over the text books, and if the Protestants were eliminated from the board the council might impose such text books on the dissentient schools as would be disagreeable to Protestants. I admit at once that if that were the fact it would be a matter of very considerable importance, but it is not the fact. The law with respect to the selection of school books is the same as it was prior to 1867. The law is exactly what it was in 1861, under which the Council of Public Instruction have no power to select text books which refer to questions of morals and religion. So far as other text books are concerned it is a matter of no importance. Protestants can learn arithmetic from the same book as Catholics, or vice versa ; it is not as regards text books or arithmetic, geography, or grammar that any difficulty would arise. It could only be upon questions of morals or religion, and as to that, the provisions of the Quebec law are the same as they were in 1861. They provide, that these text books are not selected by the Council of Public Instruction ; nor are they selected by the school trustees of the districts. Section 65 of the Common Schools Act of the statutes of 1861, gives the duties of school commissioners, and as to the course of study, &c., subject to this proviso :

> But the curé, priest, or officiating minister, shall have the exclusive right of selecting the books having reference to the religion or morals, for the use of the schools for children of his own religious tenets.

Now, Mr. Speaker, that applies just as well to Protestants as to Catholics, and, therefore we see, what this idea introduced by the Minister of Justice amounts to. It has been suggested to me by an hon. member, that this idea was repeated by the Minister of Trade and Commerce, who represents particularly in the House and in the Government—rather in the Government than in the House—the Protestants of Quebec. It was stated as an argument of great strength by him. But there is nothing whatever in it, because, as I say, while the Protestants perhaps would regret and feel injured, if their representatives on the Board of Education were done away with, yet, it would not be considered as an attack upon their religion, or as an attack upon them in any respect at all. If it were true, as suggested by the Minister of Justice, that by a change in the law of Quebec the text books affecting morals and religion for dissentient schools were to be selected by a Council of Public Instruction exclusively Catholic, then there would be an opportunity for great wrong, and a proper reason for protest.

It being Six o'clock, the Speaker left the Chair.

After Recess.

Mr. MARTIN. Mr. Speaker, at six o'clock I was alluding to the point raised by the hon. Minister of Justice, and repeated with considerable emphasis by the hon. Minister of Trade and Commerce, who is the Protestant representative of Quebec in the Government. The point they made was : that there have been changes in the law of the province of Quebec since confederation, which, if repealed by the legislature, would place the Protestants there in an anomalous position, and one which they could only obtain a remedy for under the clause which we are discussing in connection with this Bill. I was able to show that the law in the province of Quebec—which was important to the Protestants with regard to the choosing of text-books and with regard to morals and religion—was the same prior to confederation as it has been since. That being so, under the British North America Act, any attempt to change that law would be ultra vires of the legislature of Quebec, and would have no effect at all ; because the Protestant minority of the province of

Quebec are entitled under the British North America Act not only to all the rights and privileges enjoyed by the Catholic minority in the province of Ontario, but also to all the rights and privileges the Protestant minority in the province of Quebec enjoyed at the time of the union. So, any point that is attempted to be made for the Government based on this aspect of the affair falls to the ground; and we come to find that the only change of importance to Protestants in Quebec that was made since confederation, was a change by which, under the law, they are entitled to a certain number of members on the Board of Public Instruction. As I said before, a repeal of that law would not be pleasant or palatable to the Protestants there; but still it would not be such an infringement of their rights as to create any trouble or difficulty; and therefore it is a matter of very little moment, so far as this Bill is concerned.

One other matter with regard to the remarks of the hon. member for East Lambton. He made use of an argument which I have heard used upon the stump, in connection with this question, but which I have not heard in the House, and had not expected to hear in the House from any lawyer of standing. It was not put forward by the hon. Minister of Justice on behalf of the Government, and it requires only a moment's consideration to show its absurdity. The hon. gentleman read from the formal part of the Order in Council adopted by the Imperial Privy Council on the report of the Judicial Committee. It is as follows:—

> Her Majesty having taken the said report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof and to order, as it is hereby ordered, that the recommendations and directions therein contained be punctually observed, obeyed and carried into effect in each and every particular. Whereof the Governor General of the Dominion of Canada for the time being, and all other persons whom it may concern are to take notice and to govern themselves according.

The hon. member for East Lambton interpreted that to mean that we were bound to do what the Government proposed to do by means of this Bill. In the speeches on the stump to which I referred, gentlemen representing the Government, reading these words, have alleged that it would be high treason to Her Majesty on the part of the Government here to refuse remedial legislation to Manitoba in pursuance of these words. Now, Sir, every lawyer knows that these words are contained in every Order in Council that is passed on the recommendation of the Judicial Committee of the Privy Council—that they are purely formal, and have no reference particularly to this question. And if it were necessary to allude further to an argument of that kind, it merely drives us back to the question what the Privy Council decided in their judgment contained in the Order in Council; and, so far as these words are concerned, they throw no light upon the question one way or the other. Now, Mr. Speaker, the hon. Secretary of State, in moving the second reading of this Bill, dwelt at considerable length upon the negotiations which finally resulted in the confederation of the first four provinces of Canada. As I understood him, he urged as an argument why this Bill should be passed, that difficulties and troubles existed at the time of the union and long prior thereto with regard to the question of separate schools in the province of Ontario, and the question of dissentient schools in the province of Quebec. As the founders of confederation were able to adopt certain provisions contained in section 93 of the British North America Act for the purpose of finally settling those disputes, he held that to be a reason why this coercion Bill should be passed. Now, in the first place it is evident that the negotiations and the legislation resulting therefrom had no reference whatever to any other province than the four provinces in question. The constitution of Manitoba was established long after that time, and the section as to education in pursuance of any provisions of the British North America Act. If it were intended, at the time that settlement took place, that in the new provinces of Canada as well as in the old provinces, this agreement as to separate schools for Catholic minorities, and as to dissentient schools for Protestant minorities, should apply, we would have found a provision in the British North America Act that in establishing a constitution for a newly-created province thereafter, the same provisions should be inserted. But nothing of that kind was found in the Act, and the provisions made with regard to the provinces of Nova Scotia and New Brunswick are quite different from the provisions made with regard to the provinces of Ontario and Quebec. Although the words are the same in the first subsection of the clause giving to any class of persons the rights and privileges they enjoyed at the time of the union, it is well known that Nova Scotia and New Brunswick enjoyed by law no rights and no privileges, and therefore those two provinces are confined to that section providing that if, after confederation, any rights and privileges should be conferred by legislation, there should be an appeal to the Government here. So each province was dealt with according to its own circumstances, and nothing whatever was said with regard to new provinces that might afterwards be brought into the union, as Prince Edward Island, British Columbia and Manitoba have been. Therefore, I fail to see what possible reason can be derived from the negotiations which then took place, or from the parliamentary settlement that was made in pursuance of those negotiations with regard to the provinces of Ontario and Quebec, why this particular Bill should be passed.

The hon. Secretary of State (Sir Charles Tupper), all through his speech, seemed to put the question upon the basis, that there had been in Manitoba an enjoyment, prior to the union, of a right or privilege by the Roman Catholic minority which the legislature of Manitoba afterwards interfered with. He repeated that statement, time and again, in that speech. It is scarcely necessary, it seems to me to point out to this House, every member of which has very fully, for the past five or six years, studied and discussed this question, that in no way is that the question involved, because it has been determined by the Privy Council, in the case of Barrett vs. Winnipeg, that the statute of 1890 in no way affects injuriously any right or privilege which the Roman Catholics enjoyed at the time of the union, and the right which the Privy Council, in its second judgment, has determined to belong to the minority in Manitoba, is a right claimed to have arisen owing to the passage of the School Act of 1871. That is the question we have to deal with. And the question, it seems to me, which should divide those who are for and those who are against remedial legislation, is: Had the statute of 1871 the effect of giving to the Roman Catholics in Manitoba the right never to have that statute changed? And does the fact, that the statute of 1890 repeals the statute of 1871, and thus takes away the privileges conferred upon the Roman Catholic minority by that statute, demand, in itself, from the Government, in the first place, by its remedial Order in Council, and from Parliament, in the second place, by its Remedial Bill, ipso facto, without anything further, the interference of the Government and the House? It is contended, on the part of the Government, that the mere fact, that this statute of 1871 gives separate schools to Manitoba, and that the statute of 1890 takes away those separate schools, compels the House of Commons, no matter what the views of its members may be, to pass a Remedial Bill, restoring those separate schools. Now, I take issue with that. The opponents of remedial legislation contend, that that is not a constitutional interpretation of our fundamental law there; they contend, that that is not the decision of the Privy Council in the second case, but that, on the contrary, what the Privy Council decided was, that the statute of 1890 having taken away from the minority certain rights and privileges conferred upon them by the statute of 1871, a case arises under the 3rd subsection of section 22 of the Manitoba Act, which gives jurisdiction to the Governor General in Council to hear and determine the appeal of the Roman Catholic minority, but, just as the Privy Council in its judgment expresses it, it is for the authorities—that is, the Governor General in Council here—to determine what relief shall be given, and the nature of the relief. It must be either one way or the other. Either we are bound, without any option, without any opportunity of discussion, as a mere machine, to restore everything that was taken away, or there is the right of inquiry, and there is the responsibility of the Government, in the first place, and Parliament afterwards, of determining just how far it is fair and right to the majority and the minority in Manitoba to interfere with local legislation, which does take away any of these rights and privileges thus conferred. And it is our contention, that the very first thing necessary, under the circumstances, is for the Governor General in Council here to thoroughly understand all the circumstances, to take up the law as it was in 1871, and as it was amended from time to time up to 1890, to consider the rights and privileges conferred upon the minority by those laws, to learn on what pretext the legislature of Manitoba in 1890 took away some of those rights and privileges, and whether the taking away of those rights and privileges was an unfair oppression of the minority, or a legitimate exercise of the provincial jurisdiction in the matter of education. That is our contention, and that is a very different matter, indeed, from the suggestion put forward by the Secretary of State, that, in doing this, the Government was merely carrying out the constitution. I contend, that they are not carrying out the constitution. I contend, that they are attempting to place an interpretation upon the Manitoba Act, and that they are seeking to evade their responsibility in the premises. They certainly have never heard the case of Manitoba. They have only heard the case of the minority. Upon the strength of that case, they have, by a remedial order, conceded to the minority the whole of their claim. They have passed a remedial order, the effect of which, if it had been carried out by the legislature of Manitoba, would have been to restore exactly the state of things that existed in 1890, prior to the passing of the School Act of that year. That is the only way in which the legislature of Manitoba could have obeyed the remedial order. Then, up to that point the Government acted in accordance with their own theory. They passed the remedial order, which correctly carries out that interpretation of the constitution; but they stopped short when they came into this House, and presented a Bill, not in the terms of the remedial order, but another kind of a Bill. It has been said, on their part, by speakers outside of this House, and probably inside this House, that the Government would never restore to Manitoba the inefficient schools which were proved to have been in existence there under the legislation prior to 1890. On what principle do they refuse to restore these inefficient schools? According to their own argument, they must do it. According to their interpretation of the constitution, we have no discretion, we have no right to inquire whether it is well for the minority that these schools

should be restored, or not, any more than we are entitled to inquire whether it is fair that the majority should have done as they have done. If the mechanical theory is the correct one, then it is useless for them to say that by their remedial legislation they will make the schools efficient, for that is not the complaint here. The complaint is that the statute of 1871, having conferred a right or privilege—no matter how extreme, no matter if it had gone ten times as far as it actually did go—it is binding for all time, and that if the local legislature of Manitoba repeals that Act, or interferes with it, we are bound, under the interpretation put forward by the Government, to give back to them what was taken away, whether we think it is right or not, whether we think it is fair or not. But, Mr. Speaker, that contention they have entirely failed to carry out. And why? Why has the Bill, as presented here, failed to follow the terms of the remedial order? Because, in spite of the Government's decision to close their ears, in spite of their decision to act without any investigation into the conditions in Manitoba, facts have come to their knowledge since the passing of the remedial order which have shown them that these schools were inefficient, that there were many reasons why the legislature of Manitoba were quite justified in dealing with the state of things as it existed in Manitoba prior to 1890. And they admit that by saying that they will not, in their Bill, give to the minority the relief that the remedial order gives, but they will temper that by making, of their own accord, provisions which did not exist in the old law, and which they propose to put in now, for the purpose of making these schools efficient. Surely they must be wrong, either in one instance or in the other. If we are a mere machine in this matter, if we have no discretion, then the only thing that we can do is to pass the Remedial Bill in the terms of the remedial order, giving back to the minority in Manitoba whatever they had before, without any attempt to inquire whether what they had before was right or wrong, fair or unfair. If, on the other hand, we have the right to do as the Government have done in presenting their Bill, if we have the right to take into consideration the circumstances, to look at the law that was passed, and make up our minds upon our responsibility as legislators, how far we will restore these schools, how far we will impose conditions upon the restored schools, with the view of making them more effective in the interest of the minority, for whose benefit they were established, if that is our duty in making a Remedial Bill, surely it follows that that was the course that the Government should have taken in connection with the remedial order. And I say, Mr. Speaker, that there is where the whole difficulty in this question has arisen, as I shall show when I come to deal with the suggestions which have been made, and are being made, day after day, pointing to a compromise or settlement of this question through the Manitoba government.

Now, the Minister of Justice recognized the fact that there had been throughout Canada a great deal of very unfavourable, very hostile criticism of the remedial order; and he endeavoured to show that on the 21st March, 1895, when it was passed there was really no course open to the Government but to pass the remedial order in the terms in which it is couched. Let me examine for a few moments the reasons given by the hon. Minister in support of this contention. In the first place, he said, it was well known that Manitoba intended to do nothing in the premises, and, as a proof of that very broad and, I must say, very untrue statement, he instances the fact that in 1894 a communication was sent from the Government here calling the attention of Manitoba, and also of the North-west Territories to the unfair position of their school legislation, as affecting Roman Catholics, and that, in answer, the government of Manitoba sent a communication stating that they were satisfied with their school legislation, and did not intend to depart from it. Surely, Mr. Speaker, it cannot be argued that that was any indication of the position that Manitoba would take in view of the present position of the question. For that correspondence took place before the decision of the Privy Council was known, and the decision of the Privy Council entirely altered the position of Manitoba. The government of Manitoba have never said that they intended to defy the constitution; they have always admitted that they were bound by the constitution. But in 1894 there was no decision which made it clear to them. Therefore, anything they may have said or done prior to that decision is no indication what their position would be after they had the decision of the highest tribunal in the land pointing out to them the position in which the province was placed, and showing them that in case they refused to redress these grievances the Government here and this Parliament had the power to take the subject of education out of their hands, and legislate for them. The next thing that the hon. Minister of Justice cites as an indication of the position of Manitoba is the speech from the Throne, in 1895, and this, I may say, is the only indication whatever that Manitoba had given, up to the time of the passing of the remedial order, of what their position would be. I will read it, and I ask the House to consider whether what is said in the Speech from the Throne in Manitoba, in 1895, is couched in such language as to induce the Government here to believe that there was no use in attempting to negotiate with Manitoba upon this question. These are the words:

It is not the intention of my Government in any way to recede from its determination to up-

hold the present public school system which, if left to its own operation, would in all probability soon become universal throughout the province.

Now, Mr. Speaker, it seems to me, that is a very moderate assertion of the right, of the intention, of the province to stand by its legislation. There is no suggestion there that they do not propose to be bound by the constitution; there is no suggestion there that they are not prepared to receive communications, to enter into negotiations with this Government with regard to that matter. Yet that is really the only evidence that is put forward by the Government as to any indication of its attitude given by the legislature of Manitoba prior to the 21st March, 1895, when they, without any inquiry, on the shortest possible notice to Manitoba, without any endeavour to investigate the facts, passed the remedial order, which, Mr. Speaker, I say is an order calling upon Manitoba to restore the old law just as it was, with inefficient schools and everything else, no matter what might be contained in those statutes that were in force prior to 1890—all had to be restored. Now, let me read the material part of the remedial order in proof of what I have to say. After reciting all the facts, the remedial order, the kernel of it, is this:

> The rights and privileges of the Roman Catholic minority of the said province in relation to education prior to the 1st day of May, 1890, have been affected by depriving the Roman Catholic minority of the following rights and privileges which, previous to and until the 1st day of May, such minority had, viz.:—
>
> (a.) The right to build, maintain, equip, manage, conduct and support Roman Catholic schools in the manner provided for by the said statutes, which were repealed by the Acts of 1890 aforesaid.
>
> (b.) The right to share proportionately in any grant made out of the public funds for the purposes of education.
>
> (c.) The right of exemption of such Roman Catholics as contribute to Roman Catholic schools from all payments or contributions to the support of any other schools.

Those were the three things which the Roman Catholic minority were deprived of by these Acts, and the remedial order goes on to say:

> And His Excellency the Governor General in Council was further pleased to declare and decide, and it is hereby declared that it seems requisite that the system of education embodied in the two Acts of 1890 aforesaid, shall be supplemented by a provincial Act or Acts which will restore to the Roman Catholic minority the said rights and privileges of which such minority has been so deprived as aforesaid.

Not any modification, not any change, but restore those rights and privileges of which such minority has been so deprived as aforesaid.

> And which will modify the said Acts of 1890, so far and so far only as may be necessary to give effect to the provisions restoring the rights and privileges in paragraphs (a), (b), (c), hereinbefore mentioned.

Now, Mr. Speaker, could words be clearer? Is it possible to state in more definite language, that what they are called upon to do is to restore those statutes in so far as they affected the Roman Catholic minority, exactly as they were, without any regard to whether there was anything in them providing for efficiency, without any regard to any matters of detail, without any other consideration at all, except the one fact, that they should have those schools as they were before, that they could not be taken away from them, and, if they were taken away from them, or if there was an attempt to take them away, by the local legislature, then this Government and this Parliament intervened to restore them, not because they were right, not because they were fair, but because the constitution compelled us to give them back those schools exactly as they were. Now, the Minister of Justice said that the remedial order did not say that. He said it pointed out, by recital, the judgment of the Privy Council. I would like to ask the Minister of Justice: If you are reading a document, or a deed, do you look for the recitals for what the deed is to pass? Do you look at the recitals, or do you look at the operative part? I say, that you have got to look at what they are ordered to do. The remedial order orders them to do something. It recites the facts and the circumstances which have led up to the passing of the order. The Minister of Justice says it recited the judgment of the Privy Council, and the remarks of these judges that it would not be necessary to repeal the Acts of 1890. Well, I suppose, no one has contended that: it has never been contended by any one, that it would be necessary absolutely to repeal the Acts of 1890, because it is admitted, on all hands, that it had the right to change, as we did change, the constitution of the Protestant board. But what the remedial order does, is to say, that you must change the Act of 1890 so as to give these three things to the Roman Catholics; there is no qualification, there is no suggestion whatever in the remedial order itself, that anything less than a complete compliance with it would be an answer to it, and it was so interpreted by the people of Manitoba. When it was laid before the legislature, the legislature took the ground that they could not obey it, and they refused to do so. I shall allude later on to suggestions made by the legislature in making that refusal. But what I am trying to emphasize now is, that the Government had precluded themselves and had precluded the government of Manitoba, from entering into any negotiations, from proposing or suggesting any compromise, from doing anything at all, except what they did, that is, in a dignified manner to refuse to obey the remedial order. I say, that, so far as that aspect of the case is concerned, the whole difficulty in which the

Government finds itself to-day, and in which this Parliament finds itself to-day, has arisen from the fact, that the Government have passed this exceedingly drastic, this exceedingly far-reaching Order in Council, without, as I say, attempting to exercise any discretion in the matter, pretending that they were a mere machine; and now, when they find that they are not able to propose to this House a Bill in the terms of the remedial order, they begin to think of negotiations. They began to think of compromise. The time for negotiation, the time for compromise, the time for consideration, the time for inquiry and for investigation, was before judgment, and not after judgment. These hon. gentlemen, acting in a judicial capacity, have given judgment. They are about to proceed with execution, and they hesitate in executing their own judgment, and send Sir Donald Smith to Winnipeg to see if there is not some possibility of the government of Manitoba doing something, anything to get them out of this hole, even if it was only to throw out a suggestion. I believe at the present moment they are on their knees to Mr. Greenway, imploring him to come to Ottawa in order that they may say that he is coming here for the purpose of settling the difficulty. Settling what difficulty? Getting the Government out of the trouble in which they have placed themselves by passing this most unfortunate remedial order. It may be that Mr. Greenway will come here. I can scarcely see how he can avoid it, on the principle he has laid down, because he has said, time and again: We admit the constitution, we do not dispute the decision of the Privy Council: we desire to control our educational affairs: we admit you have jurisdiction to take them out of our hands; we are prepared to do justice in the premises, to give every facility for investigation, and if, after investigation, a case is made against us, we are prepared to make matters right ourselves. We do not desire coercion: we do not desire to be interfered with. But I can say this, that if Mr. Greenway does come here, that will be no sign and no indication that there is any hope whatever that the government of Manitoba will do anything in the premises. They cannot do it. The Government here have rendered it impossible for them to do it. Every attempt has been made. His Excellency sent for Mr. Greenway and Mr. Sifton. They came here. They met His Excellency, and they discussed the question with him. Nothing came of it. Sir Donald Smith went to Winnipeg. He met Mr. Greenway and Mr. Sifton. They discussed the question together, and nothing came of it. Nothing will come of any negotiations or any attempt at compromise or settlement of this question, unless one thing is done, and the Government were early in the day informed of that. If they are prepared to retrace the false step, if they are prepared to repeal the remedial order, and place the matter back where it was when they made that fatal blunder, the door of negotiation, the door of compromise will be opened, and they may have some chance of obtaining what all hon. members in this House, on both sides, would deem to be the most fortunate result that could occur under the circumstances, a settlement of this case by Manitoba herself, and one satisfactory to the minority. The Minister of Justice, it is true, in referring to the communications which passed in 1894, and the Speech from the Throne in 1895, threw out the suggestion that something had happened since the passing of the remedial order as a justification of his position. He stated that the hon. member for North Simcoe (Mr. McCarthy) had stated, in July last, in this House that Manitoba could not recede from her position. Surely nothing that occurred after the passing of the remedial order could be any justification for the passing of that order; and I can say this, that what the hon. member for North Simcoe meant by saying that Manitoba could not recede from its position was, as I have been endeavouring to explain, that the people of Manitoba considered the remedial order a most harsh judgment given against them in their absence, without any opportunity, on their part, to meet the case made against them, and they believed they were justified in the interest of the province in answering that remedial order by a dignified refusal to obey it. The legislature of Manitoba had, I believe, the approval of nineteen-twentieths of the people of that province in their answer to that order, and surely, under those circumstances, hon. members could not expect the government to recede from their position; they could not do it if they desired, for they would lose the public confidence which they now enjoy to so large an extent if they receded one iota from the position they took in June in answer to that order. But that is all they have done. They have never said they would refuse to do justice in the premises. They have only said they would not obey the remedial order. I therefore say that until and unless the remedial order is rescinded, and the question put back where it was on 21st March, there can be no hope of any settlement or any compromise.

There is an incidental feature of this case to which, at this stage, I may refer, and that is the appearance in the printed documents that have been laid before this House of a number of affidavits which were presented to the Governor General in Council by Mr. Ewart on behalf of the minority, but which were withdrawn. The hon. member for Pictou, the ex-Minister of Justice, boldly justified the course of the Government in printing those affidavits. But I wish to draw the attention of the House to the fact that in 1895 the Government were challenged with the impropriety of printing affidavits which were withdrawn or not al-

lowed to be entered, affidavits on which the remedial order was not based, because the remedial order could not be based on material which was not before the courts, and which was put on one side. What would hon. members think if the Court of Queen's Bench in Manitoba heard a case, and during the case certain affidavit evidence was presented by the plaintiff, and for one reason or another, was withdrawn, and not entered, and not considered by the court in its judgment, yet, on certifying a case, as the court is bound to do, for repeal to the Supreme Court of Canada, the court should include in that case for appeal the affidavits that had been withdrawn. Why, it would be considered an outrage in that case, and it is all the more an outrage on the part of the Government, because if a court is bound to be fair, how much more is the Governor General in Council, the representative of the Queen, bound to be fair in a matter of this kind. And so the present Minister of Justice (Mr. Dickey) considered it at that time. Last session the matter came up on the motion of the hon. member for Simcoe (Mr. McCarthy), and Mr. Dickey with regard to that matter spoke as follows :—

Mr. DICKEY. I desire to make a personal explanation, not to offer any remarks on the subject before the House. The hon. member for North Simcoe (Mr. McCarthy) referred to the publishing of some affidavits which were put in evidence at the hearing before the Privy Council of Canada, and subsequently withdrawn as the case proceeded. The hon. gentleman seemed to feel that that was a great injustice, not only to himself but to others, and the present Government as an organization has quite enough faults to answer for without answering for my personal faults, and I therefore desire to take the personal responsibility of publishing those affidavits. They were put in and read, and subsequently, as the proceedings show, were withdrawn. Mr. Ewart claimed they should be printed, and there was no contest over it, in fact, the question was never raised. I was then Secretary of State, and the Printing Bureau sent and asked me whether they were to be printed, the message being received by me just as I was going into the room on the second or third morning, and without consulting my colleagues and without giving the matter serious attention, I said, " Certainly, they are part of the proceedings, print them, and print that they were withdrawn." I may have been entirely wrong, perhaps I was ; I must say, on considering the matter when the printed book was placed in my hands, I thought I had made a mistake. What I want to say is that any observation founded on want of good faith or on the idea that there was any intention on the part of the Government in so acting is entirely mistaken. We are still subject, and I personally and particularly am subject to any remarks as to any practical injustice that has been done, but I do not want the House to suppose that there was any intention in placing the affidavits there, of taking any unfair advantage, and that there was anything more than a mistake made. Tht mistake occurred inadvertently, and the hon. members may refer to it as they think proper, but they should consider it not an intentional and wrong act.

Now, Mr. Speaker, it occurs to me that is a most manly, honourable, and straightforward explanation, and it was so accepted by the House. But what do we find this session ? We find the hon. the ex-Minister of Justice coming forward boldly, and claiming it was right, claiming there was nothing wrong about it, that it was done deliberately and intentionally, and that it was justifiable. I say, Mr. Speaker, that it is an outrage. I say that no greater wrong could be done than to publish evidence withdrawn by the plaintiff, and never allowed to be answered. It is sometimes suggested ; but why do you not answer these affidavits now. Why, that is worse than what I was talking about ; it is settling the case after judgment. They want us to give our evidence after judgment has been rendered against us. What is the object of that ? I suppose if we answered these affidavits now, there would be counter affidavits in reply, and the matter might go on for some time. But I say this, Mr. Speaker : There is an answer to these affidavits. I can say further, that these affidavits are not true so far as they refer to actions of mine. I do not propose to discuss them here, or to consider them at all in connection with this case. They were not made a part of the case. I never knew of them until after judgment was given. It is so manifestly unfair, and against the ideas of justice, that these affidavits should be published, that one would have thought that no government would do it, no matter how depraved, no matter how lost to all idea of fairplay and decency, as this Government in many cases has shown itself to be. Surely one would think they would have enough manliness, and enough decency, and enough fairness, not to attempt to prejudice the people of Canada, by sending broadcast, with the official stamp, documents that are no documents at all, affidavits that are not affidavits in this case, and which were withdrawn and never considered. Yet, with a view of attempting to influence the people of Canada, this Government have descended to this petty means. What do you think of a government capable of that ? Were it not that this is in entire accordance with their conduct in many instances, my surprise would be greater than it really is.

Mr. AMYOT. Are you talking about St. François Xavier now ?

Mr. MARTIN. Yes, with regard to St. François Xavier. What does the hon. member (Mr. Amyot) think with regard to that ?

Mr. AMYOT. If the hon. gentleman will allow me to tell him, I will tell him.

Mr. MARTIN. Yes.

Mr. AMYOT. I think it was a most extraordinary way of imposing upon the people by false promises. False promises were made, while it seems it was the intention of the

candidate, and of the Government at the time to deceive the people.

Mr. MARTIN. Now, Mr. Speaker, there we have an example of what we are complaining of. Even a member of this House has allowed his judgment to be influenced by these affidavits. Even a lawyer, and a Queen's Counsel I am told——

Mr. AMYOT. Yes, and able to read.

Mr. MARTIN. I do not think that the title of Q.C. adds any very great lustre to the hon. gentleman's position.

Mr. AMYOT. I do not agree with the opinion of the hon. gentleman.

Mr. DALY. The hon. gentleman (Mr. Martin) is not one.

Mr. MARTIN. I do not think that title adds any very great lustre to the hon. gentleman's position, considering that every fifth-class lawyer in the country is a Queen's Counsel.

Mr. DALY. Except yourself.

Mr. MARTIN. If he is a Tory.

Mr. DALY. I suppose you include the Attorney General of Manitoba.

Mr. MARTIN. But, he is not a Tory. A distinguished Queen's Counsel said to me the other day in Winnipeg, that he wished he could get rid of his right to be a Queen's Counsel, because, he said, nowadays it is a greater distinction not to be a Queen's Counsel than to be one. Why, my opponent in the city of Winnipeg, a very respectable lawyer but a gentleman who hardly ever appears in court, when he was defeated, he was made a Queen's Counsel.

Mr. SOMERVILLE. He was not paid any money.

Mr. MARTIN. No. Here we have the hon. member for Bellechasse (Mr. Amyot), a lawyer, a Queen's Counsel, and a member of this House, actually telling me what he thinks of what occurred in Manitoba, based on statements contained in these affidavits. If the hon. gentleman were a judge would he express the slightest opinion upon a case, either of the defendant or the plaintiff, based upon affidavits which the other side had not had an opportunity of answering ?

Mr. AMYOT. I do not speak of these affidavits. I speak of the facts of the case as they appeared at St. François Xavier. It was promised there, that if the Greenway candidate was elected, and if the government of Mr. Greenway succeeded, that never would the Catholic schools be touched, that never would the French language be interfered with, and that the territorial divisions would not be changed. But immediately after, when on account of these solemn promises the Greenway candidate was elected ; the first opportunity was taken by that government, to deprive the French of their schools, of their language, and of their territorial divisions. The hon. member (Mr. Martin) has had eight years to contradict that, and he never could contradict it, and he never will be able to contradict it.

Mr. MARTIN. These are the very affidavits I have referred to. The hon. gentleman will find them on page 129 of the papers in reference to the Manitoba school case, presented to Parliament during the session of 1895. The first one he will find is an affidavit of James Fisher, of the city of Winnipeg, barrister-at-law—a long affidavit, referring to these very suggestions which the hon. member for Bellechasse (Mr. Amyot) has taken as true.

Mr. AMYOT. It is not from that book I take them at all.

Mr. MARTIN. Where did you get them ?

Mr. AMYOT. We got them from Manitoba years and years ago. They were given to the public, and they are well known, and the hon. gentleman is not able to deny their truthfulness.

Mr. MARTIN. I say, I am able to deny the truthfulness of the statements made in those affidavits ; but I never had an opportunity of doing so, because they were withdrawn. The gentleman who presented them, Mr. Ewart, dared not allow an answer to them ; and, rather than submit them to be answered by those affected, he preferred to withdraw them, and did withdraw them. But, in spite of that, we have them printed at length in this official book, bearing the Government stamp, and sent broadcast throughout the land to influence the electors on this question ; and, if they have influenced, as they appear to have done, the learned Queen's Counsel, the hon. member for Bellechasse, who knows something about the circumstances, and must have known that they were withdrawn, how much greater must be their influence, and how much more unfair their operation, upon the great body of the electors, who cannot be supposed to know all these circumstances to which I have alluded.

Now, Mr. Speaker, I wish to say a few words with regard to my own connection with the legislation which is before us for consideration. As there has been an endeavour throughout Canada, by the use of certain statements made by me, to discredit through me the 1890 Act of Manitoba, I desire to explain just what I did. I have nothing to withdraw. I stand by every word that I have said on this question. But I protest against the unfair manner in which advocates of the Government have misrepresented my attitude with regard to this question. Last year, on the 25th June, while the House was in session, having observed in one of the papers here, that the hon. Minister of Public Works (Mr. Ouimet) had stated in an interview, that, if the Roman

Catholics were allowed to have religious exercises in their schools in Manitoba, they would be perfectly prepared to accept the 1890 Act as it was, I wrote the following letter to the "Citizen" newspaper of this city :—

Editor Citizen,—I notice in your issue of to-day's an interview with the Hon. Mr. Ouimet, from which the following is an extract :—

However, it would be idle to discuss that now as no legislation has been asked by the Catholics of Manitoba giving them the right to share in the funds provided for education by the Government or by the local authorities if their schools are not up in secular teaching, to the public schools of the province. All that they ask is to be at liberty to add to the secular education required in the public schools such religious teaching as will meet their religious views. I may say that if that had been provided for in the legislation of 1890, we would never have heard of the Manitoba schools question.

There has been all along a very serious misunderstanding between the Roman Catholic church and the people of Manitoba, if the above is an accurate statement of the position of the church. I suppose, however, that we must take for granted that Col. Ouimet is in a position to formulate the wishes of the Roman Catholics in connection with this question. If so, then I may say at once that there is no need of any remedial legislation in order to bring about such a state of affairs. I believe the people of Manitoba would be willing to give the Roman Catholics all that is asked for.

Everybody wishes that a solution of the question may be found without any coercion on the part of the Dominion Parliament, and if the demands of the minority are correctly expressed by the Minister, I am very much at sea in my acquaintance with the views of the Manitoba people, if they will not bring about of their own accord all that is asked.

When I introduced the School Bill of 1890, I pointed out that in so far as it provided for religious exercises in the schools, it was in my opinion defective. I am one of those who deny the right of the state to interfere in any way with matters of religion. I said then, and I still think that the clause of the 1890 Act, which provides for certan religious exercises, is most unjust to Roman Catholics. If the state is to recognize religion in its school legislation, such a recognition as is acceptable to Protestants only, and in fact only to a majority, of Protestants, is, to my mind, rank tyranny. The desire of those with whom I think in this matter is to eliminate every question of a religious nature from the school laws and to make the school laws purely secular. This has not been done in Manitoba, and that course is apparently not supported by a majority of the people there. That being so, surely it will be admitted that the nature of the religious exercises or religious teaching (I am unable to make any clear distinction between the two) should be such as is agreeable to the consciences of those whose money is taken to support the schools. I have sufficient faith in the liberality of the Manitoba people to declare on their behalf that if a final settlement of this question can be reached upon the lines suggested by Col. Ouimet, they will do their part. What Manitoba has insisted upon is that the Roman Catholics shall not have a system of separate schools such as existed prior to 1890, which were exempt from the general laws as to efficiency. If the Roman Catholics are willing to accept the schools as they exist at present and as they may from time to time be modified with the addition of such religious teaching as they may desire, then there should be and I am sure would be no difficulty in reaching a settlement of the whole question without any legislation on the part of the Dominion Parliament.

Yours truly,

JOSEPH MARTIN.

Ottawa, June 25th, 1895.

Now, Sir, I still adhere to every word in that letter ; and I again make the statement, that, if this is the only objection that the Roman Catholics have to our legislation in Manitoba—that there are religious exercises there which are not acceptable to them, though acceptable to Protestants—the people of Manitoba, in order to settle this question, would be willing to remove from their schools all religious exercises. If that were not done and it were insisted upon by Protestants that the religious exercises which are acceptable to them should remain there, the people of Manitoba would be prepared to give those schools in Catholic districts the same right to have religious exercises suitable to them. I have no doubt of that. And if it were not so, if the people of Manitoba were prepared to consider the conscience of Protestants and not the conscience of Catholics, they would be guilty of the rankest tyranny ; and knowing the people of Manitoba as I know them, I am satisfied that they would not rest under any such imputation. I am opposed myself to any religious exercises in the schools, simply for the reason that I consider that we have no right to deal with the question of religion in the legislature. I believe it is one of the subjects that, under the British North America Act, belongs neither to the Dominion Parliament nor the local legislatures—the determining of what religion a citizen of Canada shall profess or be taught. That, it seems to me, is something, under our constitution, over which none of our legislatures have control or should have control, and I say that any attempt to deal with the question of religion in a community who are not all of the same religion, is wrong. I say further, in support of the stand I take, that the schools should be secular, and that, so far as the religious exercises provided for by law in Manitoba are concerned, they are of no importance whatever. They are merely formal, and I may say that one of the leading divines of the Presbyterian Church in Manitoba, when I put the question to him : Do you consider that the reading of those passages of Scripture and the prayers provided have any effect at all upon the religious education of the children in the schools, he admitted to me that they had not, that the matter was one purely of sentiment, and that the reason he desired those religious exercises was in order that the people might not be able to say that we had godless schools. Now, surely there is nothing in that. If religious

exercises are of such purely formal character as to have no effect upon the character or the religious education of the children, then surely we can well afford, rather than have any citizen of that country feel that he is imposed upon in his conscientious belief, to do away with that small modicum of religious exercises. That is the stand I take; and I must say this, that the wrong is about as small as can be under the circumstances, because, in the first place, the question of having religious exercises is entirely within the control of the trustees in each district. If the trustees are, as they may be under the Act, all Catholics, or a majority Catholic, they can refuse to have these religious exercises. If they are Protestants who think like me, who are opposed to religious exercises on the ground that I take, they can refuse to have them; and I must say that I believe in the majority of school districts in Manitoba they do not have them. I believe, in actual practice, most of the schools in Manitoba are godless schools in the sense in which I refer to them. Therefore, I say it was a great mistake that when we were making this Act of 1890, we did not eliminate from it all suggestions of any attempt to influence the children one way or the other, in a religious sense. Because the moment you go beyond the purely formal exercises in the schools, you get at once into trouble. The moment you attempt to inculcate religious dogma in a mixed community, the question is, what dogma? Even amongst Protestants, supposing there are no Catholics, the question would be whether you would inculcate Christianity, as understood by the Presbyterians or by the Episcopalians. If you are going to have religion as one of the subjects to be taught in the schools, it follows that the teacher must be compecent to give religious instruction. Therefore, he must be examined upon religion. What is to be the test? Is he to answer questions according to the Episcopalian, the Baptist, the Methodist or the Presbyterian view?

Mr. DAVIN. I want just for my own information and the information of the House, to ask my hon. friend, who was Minister in Manitoba at the time, I believe, whether one set of districts and one set of inspectors and one set of trustees were all abolished, and one set retained—whether the Protestant set was retained and the Roman Catholic abolished?

Mr. MARTIN. The hon. gentleman's question has no bearing on the point I am now treating. I have no objection to refer to that when I come to it, and I will give the hon. gentleman full explanation of what was done in that matter; but surely the very question that is put by the hon. member, representing a constituency contiguous to Manitoba, shows that before dealing with this subject, the Government ought to have inquired as to these very matters concerning which the hon. gentleman is seeking information. What better evidence can we have that they do not know anything about that, that they do not know what was done, that they do not know how the Act of 1890 was an interference, or how the Acts prior to 1890 were interferences, and what was the effect of them—whether the schools were good schools or bad schools? All these questions all this desire which this House has shown from the very commencement of this debate, a most laudable desire, to learn something about it, is the strongest kind of argument against the autocratic action of the Government in deciding the whole question in the entire absence of any knowledge whatever on the subject. The hon. member for West Assiniboia (Mr. Davin) refers to a matter which is being put forward as an objection to the 1890 Act. It may be that it is an objection, it may be that perhaps there might have been some unfairness in that respect, but I do not think so. The 1890 Act abolished all the old laws and started out with a new system entirely. It interfered as fully and as completely with the Protestant schools as it did with the Roman Catholic schools. There were two Boards of Education. One was composed exclusively of Catholics and had entire control of matters in Catholic schools, and the other was composed entirely of Protestants and had entire control in Protestant schools. The government, of which I was a member, being a Liberal government, being imbued with the idea that the government should bear full responsibility for the expenditure of all money entrusted to them for the carrying out of the laws, in 1890, came to the conclusion that that system was not right, regarding it from that standpoint. They held that the government had no right to hand over to a board of Catholics or a board of Protestants a large amount of government money, and allow that board to spend the money and regulate these schools, and thus relieve themselves from all responsibility as to the manner in which those schools were carried on. They believed that it was the duty of the government to see to the execution of the school laws. For that reason they abolished both boards. The point that the hon. member for West Assiniboia (Mr. Davin) more particularly alluded to, as I understand it, was with regard to school trustees. Now, there was, in most cases, no difficulty. In most cases throughout the province the Catholic school districts were quite separate and apart from the Protestant districts, and the law was the same in both cases. The old district was declared to be a new district under the new law, and the old trustees—in the case of a Catholic district, the Catholic trustees, and in the case of a Protestant district, the Protestant trustees—were continued in office until the next election. When the next election came round, every person who owned land in the school district, whether he

was a Protestant or a Roman Catholic, was a ratepayer under the law, and was entitled to vote in the election for trustees. There were, however, one or two cases in the province where the school districts were coterminus, the Protestant and Catholic districts covering the same territory. Some special provision had to be made for these cases. I do not think that this occurred in any other place than the city of Winnipeg. The statute provided that in such cases the Protestant board should be the school board under the statute until the next election. Now, it may be that there was some slight unfairness in that. But, in discussing that provision, I stated to the House that if the Roman Catholic members of the House thought that it was not fair, the government were prepared to change it in any direction they suggested. It was a matter of very small importance. This was in the month of May, and in December the annual school trustee elections came on, and it was a mere question whether we should order a special election in Winnipeg in May to choose trustees for the unexpired portion of the year, or continue the Catholic or the Protestant board in control of school matters until the regular time for the election. Strictly speaking, it was not exactly fair to continue the Protestant board in operation even for that short time. But, as I have stated, I offered to make any change that the Roman Catholic members of the legislature might suggest. They declined to make any suggestions, taking the ground, which, I think, was not unfair, from their standpoint, that they thought the law unconstitutional, and would not be responsible for any part of it. They were wrong, as it turned out. This has been put forward as a strong argument as against our course, but I think that if there was a wrong, it was a trifling one, and I am sure that if they had made any suggestions, their views would have been met.

Now, I desire to say a few words with regard to the effect of the Manitoba Act upon this question in supplement to what I have already said with regard to the remedial order. I take this stand, Mr. Speaker—I believe that the Remedial Bill which is now before us for consideration is wholly unconstitutional and ultra vires, and I shall endeavour to satisfy the House of the correctness of that position from a constitutional standpoint. How do we get jurisdiction in this matter? How does it come that this Parliament is entitled to deal with education in Manitoba, it having been provided in the Manitoba Act that the province shall have exclusive jurisdiction in educational matters. Our jurisdiction arises from the fact that the Privy Council in England have interpreted the subsections of section 22, which conferred the jurisdiction as to education upon Manitoba to mean this: That if Manitoba, at any time, passes a statute which gives rights or privileges to the minority, and afterwards repeals that statute, there shall be a right of appeal to the Governor General in Council, and to Parliament. Subsection 3 provides as follows:—

> In case any such provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial law for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

When are they to make it? In case such provincial laws are not made. Now, Mr. Speaker, has the legislature of Manitoba ever had the opportunity of passing, as a provincial law, the Remedial Bill which is proposed for our consideration? Never. They have never been asked to pass it. And I say that is the source of the jurisdiction of this House—that there should have been a first refusal of the legislature of Manitoba to enact such provincial law as "seems to the Governor General in Council requisite for the due execution of the provisions of this section." That is one reason. Another reason is that the Governor in Council has never determined that this Remedial Bill which we are asked to pass is requisite for the due execution of the provisions of section 22. I say that this Parliament has no jurisdiction to pass an Act upon the subject of education in Manitoba until the Governor General in Council, as provided in section 22, has passed an order providing for that Act. And another circumstance must intervene, and that is that the order must be transmitted to the legislature of Manitoba and they must refuse to pass the Act. Now, neither of these things has been done—there has been no Order in Council by the Governor General providing that this provincial law shall be enacted by Manitoba; there has been no refusal of the legislature of Manitoba to enact this provincial law. We propose to coerce Manitoba by this Bill. We propose to usurp the jurisdiction of Manitoba, which I grant, under certain circumstances, we have the right to do, and we are bound to do. But I say those circumstances must arise. It is suggested that the remedial order goes further than this, and will include any Bill not exceeding the remedial order. I say no; I say that you are just as far wrong when you fall short of the remedial order as when you exceed it. Because the whole thing comes down to this. Has Manitoba ever refused to pass this law? It is suggested by some that it cannot make any difference; that Manitoba has been asked to restore the schools as they were. In answer to that request of the Government upon them they might have passed this Act; therefore they have had an oppor-

tunity to pass it, and it was no injustice to them for this House to do so. I think that is an absurd argument. We do not get this jurisdiction as a matter of justice or injustice to Manitoba ; we do not get this jurisdiction as a matter of fair-play to Manitoba ; we only get it under certain circumstances, and those circumstances must arise before we have the jurisdiction. It makes no difference whether Manitoba has had a chance to do it or not. You might as well say that you need never send a remedial order to Manitoba. An argument of that kind proves altogether too much, because, if the transmission of a broad remedial order which covered everything, which restored the schools just as they were, gave Manitoba an opportunity of legislating thus far, then there was really no necessity of sending it to them at all. You might say we have got jurisdiction here, because they should never have gone wrong. It is clear that if they have gone wrong, they should not have gone wrong ; therefore there is no injustice in putting them right. But our jurisdiction does not arise from any such considerations as that ; our jurisdiction is to come within the express words of section 22, and unless we come within section 22, we have not got any jurisdiction. I would like to know how the legislature of Manitoba could ever have foreseen the Remedial Bill proposed now by the Government, from reading the remedial order. Do you think it would have been possible by any guess of the legislature to have arrived at the abortion of an Act which is put forward on behalf of the Roman Catholic minority in Manitoba ? Could they ever have supposed, after what has been said by His Grace the Archbishop of St. Boniface, by the clergy of Quebec, by the advocates of remedial legislation—could the legislature of Manitoba ever have supposed for a moment that an Act like this would have met the difficulty ? Why, when we come to go into suggestions of that kind, where do we land ? We cannot depart from the letter of the law. There is a clear system laid down, and it is very simple, first, that the Governor General in Council must decide the kind of law, and he must embody that in an Order in Council. That must be transmitted to the legislature of Manitoba. If they accept it and act upon it, that ends the whole difficulty. On the other hand, if they refuse to carry it out, this Parliament has jurisdiction, not to deal with the question of education in Manitoba, not to exercise their discretion as to what kind of a law is proper to be enacted for Manitoba, but to put into the statute-book the law which the Governor General in Council has deemed requisite for the due execution of the provisions of this section. That is what we can do, and that is the only thing we can do. We have no discretion. I do not say for a moment, Mr. Speaker, that the Remedial Bill must be simply a copy of the remedial order. We have the right, once vested with jurisdiction, to devise any expedient that we may think fit to give effect to our jurisdiction. We have a right to provide every kind of detail in order that our jurisdiction may be effectually executed. But we have no right to depart from the provisions of the constitution. Our Act must carry out the remedial order in every particular ; every one will admit that it cannot exceed it. I humbly submit that the considerations which I offer for your approval show conclusively that we can no more fall short of it than we can exceed it. If that be so, Mr. Speaker, it is to my mind a further argument emphasizing the great crime that the Government committed in attempting to decide the nature of this legislation, of this interference, with Manitoba, in the absence of all knowledge of the circumstances under which a statute was passed, the circumstances of the people to whom the statute applies, the probable effect upon the majority and upon the minority of the proposed legislative interference of this House. The hon. the Secretary of State, in his remarks upon this Bill, contended that there was no coercion. Well, I do not know what coercion means, Mr. Speaker, if it is not the exercise of the jurisdiction given us here.

Mr. COSTIGAN. Was the Bill of 1890, coercion ?

Mr. MARTIN. Well, I am not prepared to say whether it was or was not. It is not material to this question, and the Privy Council of England has decided that it was quite constitutional, quite fair, and quite just.

Mr. COSTIGAN. They decided it took away rights, and forced the minority to support schools they did not believe in.

Mr. MARTIN. In the Barrett case they decided everything in our favour ; on the other hand, in the second case they decided that the taking away of those rights from the minority, gave a right of appeal here ; and as I say, the moment that the Privy Council gave that second decision, the people of Manitoba were placed in a very different position from what they were before. Sir, I have no hesitation in saying that in no part of Canada is there a people more law-abiding, with greater respect for constituted authority and for the constitution, than the people who reside in the province of Manitoba. I venture to say that in no part of Canada is there less crime in proportion to population than there is in that province. They are law-abiding, they recognize the constitution, the Government in their answers have said so each time, and they admit that this Parliament, after the matter has been investigated and an Order in Council has been properly passed, has jurisdiction to interfere. But it must be by coercion, or else there is no use for it, as the hon. gentleman has said. What does it imply ? It implies that a wrong has been done to the minority of that province, and that the Governor Gen-

eral in Council has called upon the legislature to right that wrong, and the legislature has refused. Therefore, under the provision of this constitutional Act, the Parliament of Canada forces the legislature of Manitoba to do justice in the premises. That is what coercion is ; any interference by this Parliament, under circumstances of that kind, would be coercion.

We, in Manitoba, do not contend, that this Parliament has no right to coerce us, but we do contend, that, where the constitution has seen fit to give a responsibility of that kind to the Parliament of Canada, this Parliament is not doing justice to itself, nor to Manitoba, if it proceeds to the extremity of coercing that province until every other expedient has been tried. We say the Government have proceeded to coercion without trying every other expedient, without making the slightest attempt to see whether the people of Manitoba were prepared, in view of the decision of the Privy Council, and in view of the position in which they were placed constitutionally, to deal with the question themselves. From what has already fallen from me, it must be clear to the House, that I am in favour of a full investigation of this matter. I favour an investigation and inquiry into the circumstauces that existed there, not because it is the policy enunciated by the leader of the Opposition, because I should like to say in this House, as I have said out of it, that this question is with me one that transcends party, and, if the policy of the leader of the Opposition did not meet with my approval, I would feel bound to oppose it in every way until justice was done in this respect to my province. I say, therefore, that I do not adopt the policy of investigation because it is what has been asked by the province which I stand here to represent. When the remedial order was sent to the legislature of Manitoba, after refusing most positively and most definitely to obey the remedial order, this is what the province said :

We believe that when the remedial order was made there was not available then to Your Excellency in Council full and accurate information as to the working of our former system of schools. We also believe there was lacking means of forming a correct judgment as to the effect on the province of the changes indicated in the order. Being impressed with this view, we respectfully submit that it is not yet too late to make full and complete investigation of the whole subject. Should such a course be adopted, we will cheerfully assist in affording the most complete information available. An investigation of such a kind would furnish a substantial basis of fact upon which conclusions could be framed with a reasonable degree of certainty. It is urged most strongly that upon such an important a matter, involving as it does, the religious feelings and convictions of different classes of the people of Canada, and the educational interests of their province, which is expected to become one of the most important in the Dominion, no hasty action should be taken ; but that on the contrary, the greatest care and deliberation should be exercised, and a full and thorough investigation made.

That was the first answer. When this Government, which was bound to pass their remedial order at once—it could not afford time for Manitoba to prepare its case ; time was the essence of the contract, and it had to be done at once—ascertained the trend of public opinion, they found time to adjourn the passing of the Remedial Bill from July, 1895, to January, 1896, in order that a second attempt might be made upon the province to see if the provincial government would recede from their position. Again the province of Manitoba made it most clear and distinct, that they were prepared to assist in every way in an investigation. I know the Minister of Marine and Fisheries does not desire that the province of Manitoba should settle this matter. He is, probably, the only man in this House who does not wish it.

Mr. COSTIGAN. The hon. gentleman does not know anything of the kind, and he has no right to say so.

Mr. MARTIN. The hon. gentleman's own utterances show it. The hon. gentleman said, in this House, that he would be very sorry to have a settlement made by the province of Manitoba ; that they did not want a settlement.

Mr. COSTIGAN. Never.

Mr. MARTIN. That they wanted to pass remedial legislation.

Mr. COSTIGAN. I rise to a point of order. I hope the hon. gentleman does not feel bound to give such an interpretation of what I stated on that occasion. I have explained before, that the dropping of one word in the unrevised "Hansard" might have exposed me to that misinterpretation of what I said. I have already explained the matter. I have stated repeatedly, and the country knows it, and no man has said more plainly than I have, that the question should be settled by the legislature, instead of being brought here. I have always said that.

Mr. MARTIN. The hon. gentleman has been very unfortunate, I must admit.

Mr. COSTIGAN. Not so unfortunate as the hon. gentleman thinks.

Mr. MARTIN. The hon. gentleman (Mr. Costigan) did make an explanation, and he said that the word "not" ought to be put in, but the difficulty is, if you put the word "not" in, you have all the other parts of the speech to explain. You have the part of it to explain where he said : That even if we had Mr. Greenway's promise it would not be any good to us, and where he said : We want the Remedial Bill and we want to coerce Manitoba.

Mr. COSTIGAN. The hon. gentleman (Mr. Martin) is wrong. The hon. gentleman has

no right to state what he may believe to be true, but which I know is wrong. I never said I wanted coercion.

Mr. SPEAKER. When the hon. the Minister of Marine and Fisheries (Mr. Costigan) says that he did not use the word, of course the hon. gentleman (Mr. Martin) must accept that statement.

Mr. MARTIN. I certainly do, but I say I have got my impression of what the hon. gentleman meant from what he was reported to have said in the "Hansard." Of course the "Hansard" may be wrong. I know it is a very inconvenient thing to have.

Mr. COSTIGAN. Is that the corrected "Hansard" you are about to read from?

Mr. MARTIN. I am not disputing what the hon. gentleman says. I accept his statement now, of what he desired to say, but I suppose it is not out of order to read what got into the "Hansard" in some way or other. I suppose the reported must have been listening to some other gentleman, and thought it was the Minister of Marine and Fisheries. That hon. gentleman said:

I hope I will not be offensive to any hon. gentleman, but I will as a matter of duty state clearly that my convictions are, not from a desire to attack any hon. gentleman, but to state the matter as I understand it, and my observations are of course subject to correction. At that time, to speak of a commission was to throw the question overboard so far as the minority was concerned, it was to rely upon the legislature of Manitoba to redress the grievance and to do justice to the minority. If the leader of the Opposition had a guarantee in his pocket and could produce it before this House, from the government of Manitoba, stating that in 24 hours from this time they would amend their law and re-establish separate schools, acquiescing in the remedial order, I say that would be no remedy, that it would be no settlement of the case, that they could kick it aside three months afterwards, if they thought it had not worked well.

Mr. SPEAKER. I would point out to the hon. member (Mr. Martin) two breaches of the rules, which he is committing. In the first place, he is reading from the report of a past debate, and again, even supposing that the hon. Minister of Marine and Fisheries (Mr. Costigan) was reported exactly as the hon. member from Winnipeg (Mr. Martin) states he was in the "Hansard"; if the hon. gentleman (Mr. Costigan) denies he made this statement, his denial must be accepted.

Sir RICHARD CARTWRIGHT. Permit me to point out, Mr. Speaker, that the hon. member (Mr. Costigan) did not deny that he is correctly reported; but simply, that one word is omitted which he declared altered the construction of the whole sentence. It is easy for the hon. gentleman (Mr. Martin) to put in the word "not," and then we have the exact fact.

Mr. SPEAKER. I think the hon. member (Sir Richard Cartwright) cannot very well get over the objection; that the hon. gentleman (Mr. Martin) is reading from a past debate.

Mr. MARTIN. There is no question, that is the binding rule of this House. It is a little inconvenient sometimes, but I will have to submit to it. Well, Mr. Speaker, I was going on to say, that while they were in such a violent hurry to pass such a remedial order, that time could not be allowed for anything, yet these gentlemen allowed considerable time to elapse between the receipt here of the answer to the remedial order, and their announcement of what they intended to do. And for what purpose did they delay? Why, we are told, it was for the purpose of seeing if they could not get some settlement out of Manitoba. It was for the purpose of trying again to get Manitoba to submit to the remedial order. And Mr. Speaker, the legislature of Manitoba lays down in the clearest language, that they are prepared to deal with this question fairly and reasonably. They say as follows:—

It is a matter of regret that the invitation extended by the legislative assembly to make a proper inquiry into the facts of the case has not been accepted, but that, as above stated, the advisers of His Excellency have declared their policy without investigation. It is equally a matter of regret that Parliament is apparently about to be asked to legislate without investigation. It is with all deference submitted that such a course seems to be quite incapable of reasonable justification and must create the conviction that the educational interests of the people of the province of Manitoba are being dealt with in a hostile and peremptory way by a tribunal whose members have not approached the subject in a judicial spirit or taken the proceedings necessary to enable them to form a proper opinion upon the merits of the question.

The inquiry asked for by the reply of the legislature to the remedial order should, in the opinion of the undersigned, be again earnestly invited, and in the event of the invitation being accepted the scope of the inquiry should be sufficiently wide to embrace all available facts relating to the past or present school systems.

The desire of the legislature and government of the province throughout the whole course of the proceedings, beginning with the enactment of the statutes of 1890, has been to provide the best possible means of education for the children of our citizens. To that end every possible effort has been put forth and every possible pecuniary sacrifice made in order that there might be established a school system based upon sound principles and equipped and administered in accordance with approved modern educational methods. Though very much remains to be accomplished it may be fairly asserted that a reasonable measure of success has attended the efforts which have thus been put forth.

In amending the law from time to time and in administering the system it is the earnest desire to remedy every well-founded grievance and to remove every appearance of inequality or injustice that may be brought to notice.

With a view to so doing, the government and the legislature will always be ready to consider

any complaint that may be made in a spirit of fairness and conciliation.

It seems, therefore, most reasonable to conclude that by leaving the question to be so dealt with, the truest interests of the minority will be better served than by an attempt to establish a system of separate schools by coercive legislation.

Now, Mr. Speaker, I have endeavoured to point out, that the remedial order has absolutely prevented the Government of Manitoba from entertaining any of the numerous suggestions that have been made to them, by and on behalf of the Dominion Government, with a view of their entering into negotiations with this matter. If that be so, if that fatal error of the Government has had that effect, how much more will the passing of a coercive measure in this Parliament tend in the same direction. I think it will be admitted by every one who favours remedial legislation, by the advocates of the rights and wrongs of the minority in Manitoba, that the most effectual way in which to remedy those wrongs, is to have them remedied by the legislature of Manitoba. I might go further. I might say that in my opinion no coercive Bill passed by this Parliament could ever be effectually carried out in Manitoba so as to be of real advantage to the minority in that province. As long as the people there believe that they have been unfairly treated, as long as they feel that the coercive power of this Parliament has been employed unduly and hastily, without giving them an opportunity to show the facts, and without proving a case against them, they will feel inclined to throw every obstacle in the way of the carrying out of a measure passed by this Parliament. The Government themselves, by the provisions which they have inserted in this Bill, have acknowledged that, in order effectually to carry out the remedy for the minority which they offer, they must have the concurrence of the government of Manitoba; because they provide that the government of Manitoba are to appoint a Roman Catholic board, and are to pay over the proper share of the government grant to the Roman Catholic board brought into existence by this Act. By these provisions they admit that the law can be properly put into execution only with the approval and concurrence of the local authorities. I say, therefore, that the Government, having made one fatal mistake in passing the remedial order in the terms in which it is couched, and under the circumstances under which they did pass it, will intensify the difficulty very much, indeed, if they press to a conclusion the coercive Bill now before the House. I believe that if that Bill be withdrawn, and the remedial order of the 21st of March be rescinded, the people of Manitoba, being law-abiding, and understanding the position in which they have been placed by the second decision of the Privy Council, will be prepared to do justice in the premises. I am not bound to rely upon my own knowledge of the people of Manitoba in making that statement, because we have it from the government and the legislature of Manitoba, that they recognize their position, that they do not propose to fight the constitution, that their objection to the remedial order and to the Remedial Bill is not that this Government and this Parliament have no jurisdiction in the premises, but that the jurisdiction conferred upon the Governor General in Council, and upon this Parliament, has not been exercised in a manner calculated to bring about a settlement of this question—in a manner calculated to really aid the minority, on whose behalf it is suggested we should pass this law. We all desire to remove this question from the arena of Dominion politics. I believe every word the hon. Minister of Justice gave utterance to as to the intense desire of the Government that they should not be called upon to exercise this jurisdiction. That desire is reciprocated on this side of the House. We also would be glad if there were no Manitoba school question in this House. That there is a Manitoba school question in this House, that we are here taken away from the subjects we should properly be considering, to deal with a matter of interest only to a small community, and delegated by the constitution to the legislature of the province to which that community belongs, is, I say, the fault of the Government who have control for the time being of the destinies of Canada. It is their fault. They thought they could gain great political capital by the step they took. They had decided to appeal at once to the country. They were under the impression that this hasty action would bring to their side the votes of a large percentage of the electorate of Canada. They have found that instead of it bringing them political strength, it has brought them political disunion. They have found that in every constituency that has been opened since they passed that unfortunate remedial order, they have been weakened instead of strengthened. And they find now, when they propose to follow their remedial order with a coercive Bill, that they have arrayed against them a large section of the members of this House, who were elected to support them, and who agree with them in other matters of policy. I say, Mr. Speaker, that they have brought all this upon themselves by their own action. The policy of the hon. leader of the Opposition is exactly the opposite of the policy of the Government. I am very glad, indeed, from the stand that has been taken by the legislature of the province from which I come, that I am able to support the policy of the hon. leader of the Opposition upon this question. As I said before, if that policy were not a fair one to Manitoba, if it were not in the interests of Manitoba, I should feel bound to register my vote against the leader of the Opposition, and, if necessary, in favour of the Government. I am not placed in that position. I am here prepar-

ed, heartily prepared, to vote for the six months' hoist of this Bill. By that vote, I do not intend to express the idea that this Parliament should not interfere in the Manitoba school question; but I intend to express the idea that the action of the Government in this matter has been wrong, from beginning to end, that they have not been actuated by proper motives, that they have taken hold of the question in the wrong way; I believe that there is no man in Canada better fitted to bring about a solution of this troublesome and burning question than the hon. gentleman whom the Liberals have the great good fortunate to have at their head. That gentleman has the confidence, I believe, of a large portion of his native province. He also has the confidence of a large portion of the people of Manitoba, the province particularly affected by this question. He has announced his policy as being opposed to any attempt at coercing that province unless and until it is shown clearly and distinctly, that the province of Manitoba is not prepared to submit to the constitution and is not prepared to redress wrongs when these wrongs have been pointed out to it. If that gentleman comes to power, we believe that there will never be any necessity for his proposing in this House a coercive law for Manitoba. I am satisfied that he will be able to settle this question, not, as I understand the cheers of hon. gentlemen opposite to mean, because the government of Manitoba happens to be Liberal and he is the Liberal leader; not at all for that reason, but because he has taken a statesman-like view of this question. It is not the Liberals of Manitoba who have taken their stand upon this question; it is the people of Manitoba. Conservatives in that province are just as strong upon the school question as the Liberals. The government there which would attempt to use that question as the football of party, would soon lose the support of the people of that province. Therefore, I say, it is not because the leader of the Opposition in this House is the leader of the party to which the government of that province belongs, that I look to an amicable settlement, under his auspices, of this question, but because he, from the first, has taken a high exalted position upon it—a position which is calculated to inspire confidence in him by the people of Canada from British Columbia to Nova Scotia, including the province of Manitoba. I look for a settlement in that way, but I have no hesitation in saying, that the people of Manitoba have not put themselves in the wrong upon this question, no one will refuse to accord this to the legislature of Manitoba, that, upon each occasion when they have been called upon to express themselves upon this question, they have done so in a dignified, statesmanlike way. They have touched the question fairly, and, if they are fairly approached, as I know they will be, by the hon. member for Quebec East (Mr. Laurier), when that gentleman becomes, as he soon will become, the Premier of Canada, we will have heard the last of the Manitoba school question, and this Parliament will proceed to do the proper business of the Dominion of Canada, which requires so much, and has so little, of its real consideration for the past seventeen years.